

In the Matter of)
) AU Docket No. 18-85
Competitive Bidding Procedures for)
Auction 101 (28 GHz) and Auction 102 (24)
GHz)

Neptuno Media, Inc. d/b/a Neptuno Networks (“Neptuno”), through undersigned counsel and pursuant to the Commission’s *Public Notice* released April 17, 2018¹ hereby respectfully submits these reply comments regarding the competitive bidding procedures for Auctions 101 and 102. Neptuno supports the Commission’s efforts to auction millimeter wave spectrum above 24 GHz to facilitate the deployment of 5G and other “advanced spectrum-based services.”² While the Commission has provided a list of the 5,986 licenses to be offered in Auctions 101 and 102 in Attachment A to the *Public Notice*, Neptuno respectfully requests that the Commission include in Attachment A information about all of the incumbent licensees in the 28 and 24 GHz bands. Doing so will lend additional transparency to the auction process and will, among other things, “ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services.”³

¹ *Auctions of Upper Microwave Flexible Use Licenses For Next-Generation Wireless Services; Comment Sought on Competitive Bidding Procedures for Auctions 101 (28 GHz) and 102 (24 GHz)*, Public Notice, AU Docket No. 18-85, FCC 18-43 (rel. Apr. 17, 2018) (“Public Notice”).

³ 47 U.S.C. § 309(j)(3)(E)(ii).

“include safeguards to protect the public interest in the use of spectrum”; (2) promote “economic opportunity and competition . . . by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants”; (3) promote “efficient and intensive use of the electromagnetic spectrum”; and (4) “ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services.”⁴ These public interest obligations are critical to ensuring the integrity and transparency of the Commission’s spectrum auctions for all interested parties. Given the sizeable prospects for technological innovation, economic opportunity, and global competitiveness associated with millimeter wave spectrum, the fulfillment of the public interest obligations in section 309(j)(3) of the Communications Act are paramount for Auctions 101 and 102.

The Commission can further the section 309(j)(3) public interest obligations with respect to Auctions 101 and 102 by adding to Attachment A to the *Public Notice* information about all of the incumbents in the 28 and 24 GHz bands. While the *Public Notice* observes the existence of the incumbents in both bands⁵ it provides neither the names of the licensees nor the geographic areas (counties or Partial Economic Areas) that the existing licenses cover. Interested parties therefore cannot tell from Attachment A who the incumbents are and the geographic scope of existing licenses. This hinders the ability of interested parties “to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services.”⁶ The lack of information about the incumbents in Attachment A to the *Public Notice* is particularly

⁴ See 47 U.S.C. § 309(j)(3).

⁵ See *Public Notice* ¶ 7.

⁶ 47 U.S.C. § 309(j)(3)(E)(ii).

problematic for the 28 GHz band where, pursuant to the *Spectrum Frontiers Order*,⁷ the existing 28 GHz band licenses are currently in the process of being converted to county-based licenses and are not viewable in the Commission's Universal Licensing System. Interested parties seeking to obtain a complete picture of the 28 GHz band cannot easily do so at present. This impedes the ability of those parties to engage in meaningful business planning for Auction 101.

In addition to hindering the ability of interested parties to engage in meaningful business planning surrounding the auctions, the lack of information about the incumbents in Attachment A to the *Public Notice* also raises concerns with respect to the efficiency, economic opportunity, and competition interests set forth in section 309(j)(3). In particular, the exclusion of information about the incumbents thwarts the ability of interested parties to plan for or consider secondary markets transactions in the 28 and 24 GHz bands in addition to (or instead of) participating in the auctions. This raises the possibility that both the spectrum slated for auction and the spectrum already licensed might not be put to its highest and most efficient use. As the Commission has noted, secondary markets transactions can create "new opportunities for increasing communications capacity and efficiency of spectrum use by licensees" and are meant to "complement the primary assignment function performed by the Commission through its spectrum auctions and licensing processes."⁸ Without access to complete information about the incumbents in the 28 and 24 GHz bands, interested parties cannot take full advantage of the economic

⁷ See *In the Matter of Use of Spectrum Bands Above 24 GHz for Mobile Radio Services et al.*, Report and Order and Further Notice of Proposed Rulemaking, GN Docket No. 14-177 et al., FCC 16-89, 21 FCC Rcd 8014, ¶ 35 (rel. Jul. 14, 2016) ("*Spectrum Frontiers Order*").

⁸ *In the Matter of Principles for Promoting the Efficient Use of Spectrum By Encouraging the Development of Secondary Markets*, Policy Statement, 15 FCC Rcd 24178, ¶ 2 (rel. Dec. 1, 2000).

opportunities available in these bands. This could result in a less efficient use of important millimeter wave spectrum overall.

Auctions 101 and 102 represent a critical step by the Commission in situating the United States as a global leader in next generation spectrum technologies. In order to fully harness the economic, technological, and competitive promise of millimeter wave spectrum, the Commission must take a holistic view of auction design and spectrum management in the millimeter wave bands. This means providing interested parties with more than just the licenses to be auctioned. Interested parties should have all of the facts, including information about existing licensees in a given band, to be able to engage in meaningful business planning before the auctions take place. The Commission can meet its important public interest obligations under section 309(j)(3) only if it provides a complete view of the spectrum landscape. Accordingly, Neptuno respectfully requests that the Commission amend Attachment A to the *Public Notice* to add information about all existing incumbents in the 28 and 24 GHz bands.

Respectfully submitted,

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